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October 7, 2003

The Honorable William J. Lyons, Jr., Secretary
California Department of Food & Agriculture
1220 N Street
Sacramento, CA 95814

Dear Secretary Lyons:

On September 30, the Alliance of Western Milk Producers (Alliance) sent you a letter requesting a hearing to change current pooling provisions. They also requested, on an emergency basis, that any plant and/or producer whose milk was pooled prior to June, 2003, be forced "to resume being pooled and remain pooled until the hearing is held and a decision is rendered."

Gallo Cattle Company, d.b.a. Joseph Gallo Farms (Gallo), is opposed to any hearing being held in regard to these provisions. Since its inception, the pooling plan has allowed cheese plants to elect to pool or de-pool at their discretion. This option is open to any cheese or butter/powder plant and is not limited to a select few. Most plants have elected to pool in order to protect their independent producers' or cooperative producers' pool quota. It appears that a few large milk cooperatives are attempting to usurp the right of electing to pool or not pool from two or three smaller independent farmstead cheese makers. These farmstead cheese makers produce and sell cheese directly to large, consolidated chain stores. They have chosen to use milk from their own cows, rather than buying milk from large cooperatives. In terms of milk volume, DFA, Inc. (DFA) is the largest U.S. milk cooperative, and California Dairies, Inc. (CDI) is the second largest. Both are members of the Alliance. In our opinion, this is a blatant attempt to force a few remaining independent cheese plants in California to either pool their plant and milk or to buy their milk supply from one of these giant cooperatives. Mr. Tillison, CEO for the Alliance, states that "at least two *large* (emphasis added) cheese manufacturing plants have left the pool." Gallo's cheese plant is *infinitesimal* compared to plants operated by DFA, CDI and many others.

Gallo is also subject to competition from cheese plants located in many other states. In the months of July and August 2003, the Upper Mid-West Federal Milk Order (which includes Minnesota and Wisconsin) had approximately 90% of its cheese plants de-pool.

Page 2

Gallo/Secretary Lyons

October 6, 2003

These plants de-pooled for the same reasons Gallo chose to de-pool in California. Some of these plants are owned by DFA, Land O' Lakes or other large cooperatives that Gallo competes with for cheese sales. To force Gallo and other small cheese producers to pool in California could make them less competitive with plants in other states.

The Alliance's request to "use emergency powers" to force Gallo and others to be re-pooled retroactive to July 2003 is grossly unfair and probably illegal. Gallo carefully followed procedures outlined by the CDFA's Milk Pooling Branch when it requested non-pool status. To force Gallo and others to re-pool when they have followed all proper procedures is unfair as to the intent of the current regulations and would place independent producer manufacturers at a competitive disadvantage nationally.

On behalf of Gallo, as well as other independent farmstead cheese makers (who may not be aware of this attempt by large cooperatives to eliminate these options), I am asking you to deny the hearing and take no emergency action on this unsound request.

Sincerely,



Michael D. Gallo, CEO
Gallo Cattle Company